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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,286	07/31/2001	John D. Kersten	260/131	2483
7590	02/08/2006			EXAMINER SULLIVAN, JULIANNE M
BRANDON N. SKLAR KAYE SCHOLER, LLP 425 PARK AVENUE NEW YORK, NY 10022			ART UNIT 3737	PAPER NUMBER

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/919,286	KERSTEN ET AL.
	Examiner	Art Unit
	Julianne M. Sullivan	3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 August 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-55 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/11/05</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicants' arguments with respect to Claims 1-54 have been considered but are moot in view of the new ground(s) of rejection.
2. Regarding Applicants' arguments with respect to the rejection of Claims 1 and 35 as anticipated by Kormos et al. (U.S. Patent No. 6,198,285), Applicants' attention is first directed to column 7, lines 66 and 67 and column 8, lines 1-6. There, the Kormos et al. reference teaches that the display device may show video images such as from a television or video recorder source, which meets Applicants' limitation of providing a plurality of scenes on a screen. With respect to the added limitation of moving a screen as the means for changing a scene, the Examiner has introduced a new reference, Small et al. (U.S. Patent No. 5,944,574), to meet the claims as amended.
3. Regarding Applicants' arguments with respect to the rejections of Claims 12 and 37 as obvious over Kormos et al. in view of August (U.S. Patent No. 5,681,259), and Claim 22 as obvious over Kormos et al. in view of August, and further in view of Simson et al. (U.S. Patent No. 5,953,840), the Examiner has modified the rejections to include the new reference, Small et al., to meet the limitations of the claims as amended.
4. Regarding Applicants' arguments with respect to the rejection of Claim 27 as obvious over Kormos et al. in view of August, the Examiner respectfully notes that Applicants' argument on page 22 of their Remarks, dated August 11, 2005, that the Examiner stated that "neither Kormos nor August teaches or suggests the combination of a belt in a track, and a moving means for moving a screen along the track," is incorrect. In the Office Action dated March 11, 2005,

the Examiner stated that neither Kormos et al. nor August taught “*a motor coupled to the belt*” (page 8, emphasis added). On page 7 of the Office Action, the Examiner specifically identified the portions of the Kormos et al. and August references relevant to the belt and track limitations, which are cited again in the rejection below.

5. Regarding Applicants’ arguments with respect to the obviousness-type double patenting rejection of Claim 9 over Claim 18 of U.S. Patent No. 6,335,623 to Damadian et al., the rejection has been modified to include the new reference, Small et al., to meet the limitations of the claims as amended.

#### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting

ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claim 9 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 18 of U.S. Patent No. 6,335,623 to Damadian et al. in view of Kormos et al. (U.S. Patent No. 6,198,285) and Small et al. (U.S. Patent No. 5,944,574). Although the conflicting claims are not identical, they are not patentably distinct from one another because they are directed to the same decoration of poles within a magnetic resonance imaging room.

Damadian et al. claims all of the features of the present invention, including an MRI assembly comprising first and second opposed ferromagnetic elements, first and second ferromagnetic pole supports connected to the first and second ferromagnetic elements, first and second poles, and the decoration of those poles (col. 31, lines 29-32 and col. 32, lines 1-2 and 8-30), except for claiming a screen within the assembly having a plurality of images with means for changing the image. In the same field of endeavor, Kormos et al. provides an MRI assembly with a screen having multiple images and a means of changing the image (col. 3, lines 48-52 and 57-63 and col. 4, lines 32-36 and 49-56) and Small et al. teaches a means of changing the image on a screen by moving the screen (col. 2, lines 54-60 and col. 3, lines 5-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a

screen within the assembly for the display of images to improve the patient's experience with the imaging procedure (see for motivation Damadian et al. at col. 29, lines 26-32).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-7, 10, 35-38, 40, 42, 43, 45-47, 49, 52 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kormos et al. (U.S. Patent No. 6,198,285) in view of Small et al. (U.S. Patent No. 5,944,574).

Kormos et al. discloses a room for conducting a medical procedure having a magnetic resonance imaging assembly with first and second ferromagnetic elements, ferromagnetic pole supports, and poles supported by the pole supports, a screen within the assembly having a plurality of scenes, each scene having at least one image, illumination from behind and means for changing the scene to a selected scene (col. 3, lines 48-52 and 57-63, col. 4, lines 32-36 and 49-56, col. 5, lines 27-30, col. 7, lines 66 and 67 and col. 8, lines 1-6). Kormos et al. does not explicitly disclose that changing the image is achieved by moving the screen, a switch controlling movement of the screen, a cartridge for containing the screen, where the screen is arcuate, means for changing the cartridge and an acoustic means for providing sounds, where the screen is moved to display a first or second selected image and where the second image is displayed by replacing the first cartridge with a second cartridge. In a related field of endeavor, Small et al. teaches a display screen that is moved into and out of a cartridge, by scrolling the

screen along a track that may be arcuate, in order to change the scene that is displayed, a switch for controlling the movement of the screen, means for changing the cartridge and an acoustic means for providing sounds (col. 2, lines 54-60, col. 3, lines 5-17, col. 4, lines 16-26 and 43-55, col. 6, lines 65-67, col. 7, lines 1-20 and Fig. 6). The Small et al. reference specifically discloses that its scrollable screen is an improvement upon common means of displaying scenes, such as flat panel displays, thus it would have been obvious to one of ordinary skill in the art at the time of the invention to replace the screen of Kormos et al. with the scrollable screen of Small et al. in order to reduce the cost of the display and allow control by the patient or caregiver over the timing of when the scenes are changed (see for motivation Small et al. at col. 1, lines 30-50).

10. Claims 8 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kormos et al. in view of Small et al. as applied to Claims 1 and 37 above, and further in view of Overweg (U.S. Patent No. 5,917,395).

Kormos et al. in view of Small et al. teaches all of the features of the present invention except for expressly disclosing a ceiling that is illuminated. In the same field of endeavor, Overweg teaches an MRI system having ceiling-mounted illumination (col. 3, lines 5-9 and col. 4, lines 27-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide lighting on the ceiling of the room so that the room is adequately lit for movement within the room and viewing of the screen.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being obvious over Kormos et al. in view of Small et al. as applied to Claim 1, and further in view of Damadian et al. (U.S. Patent No. 6,335,623).

The applied reference has a common assignee and one common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Kormos et al. in view of Small et al. teaches all of the features of the present invention except for expressly disclosing that the poles of the apparatus are decorated. In the same field of endeavor, Damadian et al. teaches an MRI apparatus having walls and poles decorated with outdoor scenes (col. 3, line 67, col. 4, lines 1-9, col. 29, lines 2-20 and Fig. 22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have decorated the poles in the apparatus of Kormos et al. in the manner of Damadian et al. in order to

lesser the claustrophobic effect of the magnet apparatus (see for motivation Damadian et al. at col. 4, lines 8-9).

12. Claims 11, 12, 14-18, 20, 22, 25-34, 44, 50, 51 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kormos et al. in view of Small et al. as applied to the claims above, and further in view of August (U.S. Patent No. 5,681,259).

Kormos et al. in view of Small et al. teaches all of the features of the present invention, including a bed for supporting a patient (Kormos et al. at col. 4, line 36 and ref. no. 16 in Fig. 1) and moving means that include a pulley system and motor (Small et al. at col. 4, lines 16-26 and 43-55 and col. 5, lines 45-57), except for expressly disclosing that the room includes a scent means, that the screen is moved across the room, moving means that include a belt and means for attaching the belt to the screen, where the belt moves along the track, that the belt is removably attached to the screen, that the attachment means comprises matching hook and loop material strips.

In the same field of endeavor, August teaches each of these features, including olfactory stimulation, a moving means that is a belt to which the screen is removably attached, a track for guiding the belt and an arcuate track (col. 10, lines 12-15 and 30-32, col. 11, lines 14-21 and col. 12, lines 3-8). Here the Examiner has interpreted the curtain (ref. no. 28 in Fig. 1) as the belt to which the screen is removably attached and the curtain rod (unnumbered in Fig. 1) as the track by which the belt is guided, which is arcuate in the regions where it rounds the corners of the room (Fig. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the scrollable screen of Small et al. in the position and size of the screen of August within an MR examination room in order to provide a soothing and relaxing

effect for the patient by displaying larger images that can be viewed from across the examination room (see August at col. 9, lines 32-38).

13. Claims 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kormos et al. in view of Small et al. and August as applied to Claim 12 above, and further in view of Saylor et al. (U.S. Patent No. 4,173,087).

Kormos et al. in view of Small et al. and August teaches all of the features of the present invention except for expressly disclosing that the screen is printed on both sides and that the screen is movable to display the image on the front side or the back side. In a related field of endeavor, Saylor et al. teaches a system using a scroll-style display where the screen is printed on both sides (col. 1, lines 53-62 and col. 2, lines 49-52) and where rollers are set up such that the screen moves around the rollers to display the images on the front and the back sides (col. 2, lines 52-57 and col. 4, lines 30-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a two-sided screen and system displaying images on either side of Saylor et al. with the scrollable display apparatus of Small in order to shorten the length of screen needed to provide the number of images desired and to increase the efficiency of the system by reducing the length of time it takes to switch from an image at one end of the screen to one at the other end (see Saylor et al. at col. 1, lines 35-40).

14. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kormos et al. in view of Small et al. and August as applied to Claim 12 above, and further in view of Vinegar et al. (U.S. Patent No. 4,651,099).

Kormos et al. in view of Small et al. and August teaches all of the features of the present invention except for expressly disclosing a window for viewing an image on the screen from the

exterior of the room. In the same field of endeavor, Vinegar et al. teaches an MRI scan room having a window for viewing activities inside the room from the exterior (col. 5, lines 1-7, col. 6, lines 45-53 and Fig. 9). It would have been obvious to one of ordinary skill in the art at the time of the invention to have placed a window in the room of Kormos et al. in order to allow the patient inside to look out and those outside to view the inside of the room (see for motivation Vinegar et al. at col. 6, lines 45-47).

15. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kormos et al. in view of Small et al. and August as applied to Claim 22 above, and further in view of Simson et al. (U.S. Patent No. 5,953,840).

Kormos et al. in view of Small et al. and August teaches all of the features of the present invention except for expressly disclosing a serrated gear coupled to the belt that has a serrated portion, and a torque converter for controlling movement. In a related field of endeavor, Simson et al. teaches a belt and pulley system that may be serrated, and a torque converter, which system causes movement of the screen into and out of the cartridge (col. 4, lines 19-22 and col. 7, lines 5-6, 11-23 and 52-55 and col. 8, lines 33-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a pulley system having a gear that is serrated to prevent the gear from slipping and having a torque converter in order to minimize the size of the motor to improve the ease with which the screen is moved into and out of the cartridge (see for motivation Simson et al. at col. 7, lines 5-23).

16. Claims 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kormos et al. in view of Small et al. as applied to Claim 40 above, and further in view of Sahadevan (U.S. Patent No. 5,842,987).

Kormos et al. in view of Small et al. teaches all of the features of the present invention except for expressly disclosing that a second patient is introduced into the MRI assembly and a second imaging procedure is performed. In the same field of endeavor, Sahadevan teaches an MRI system designed to increase patient throughput such that imaging is performed on a second patient with minimal delay between patients (col. 1, lines 25-28, col. 2, lines 62-67 and col. 6, lines 20-25). It would have been obvious to one of ordinary skill in the art at the time of the invention to place a second patient into the MRI apparatus and perform an additional scan in order to maximize the efficiency of the system and because it is customary for scanning procedures to be performed on multiple patients each day (see for motivation Sahadevan at col. 1, lines 19-30 and 36-42).

17. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kormos et al. in view of Small et al., August and Simson et al. as applied to Claim 22 above, and further in view of Overweg.

Kormos et al. in view of Small et al., August and Simson et al. teaches all of the features of the present invention except for expressly disclosing a ceiling that is illuminated. In the same field of endeavor, Overweg teaches an MRI system having ceiling-mounted illumination (col. 3, lines 5-9 and col. 4, lines 27-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide lighting on the ceiling of the room so that the room is adequately lit for movement within the room and viewing of the screen.

*Conclusion*

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julianne M. Sullivan whose telephone number is 571-272-6084. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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